

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES EDWARD PUTT,

Defendant-Appellant.

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UNPUBLISHED

June 24, 2008

No. 278091

Gratiot Circuit Court

LC No. 06-005327-FH

Before: Meter, P.J., and Smolenski and Servitto, JJ.

PER CURIAM.

Defendant appeals as of right the trial court's sentences imposed after a jury convicted defendant of two counts of delivery of marijuana, MCL 333.7401(2)(d)(iii), second or subsequent offense, MCL 333.7413(2). Because the trial court properly sentenced defendant under the sentencing guidelines, we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant's sole claim of error is that the trial court failed to articulate a substantial and compelling reason for departing from the sentencing guidelines when it sentenced defendant to serve 24 to 96 months in prison. We do not agree.

The trial court calculated defendant's total prior record variable (PRV)<sup>1</sup> score to be 40 and defendant's total offense variable (OV) score to be zero. These scores yield a recommended minimum sentence range of two to 17 months. See MCL 777.67 (listing the grid range for a class F offense). When the upper limit of the recommended minimum sentence is 18 months or less, a trial court must sentence the defendant to an intermediate sanction unless the trial court states a substantial and compelling reason to sentence the defendant to the department of corrections. See MCL 769.34(4)(a). An intermediate sanction cannot include a prison term. See MCL 769.31(b). Because the upper limit of the recommended minimum sentence was less than 18 months, the trial court concluded that a prison sentence would be a departure from the sentencing guidelines. The trial court stated that defendant's extensive criminal history, prior

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<sup>1</sup> Defendant's criminal history dated back to 1980 and included two prior felony convictions, one of which was for delivery of marijuana, and 24 misdemeanor convictions.

sentence for a marijuana offense, and unfavorable prognosis for reform warranted such a departure and sentenced defendant to a minimum term of 24 months in prison and a maximum term of eight years in prison.

Although the trial court expressed its belief that the sentence imposed constituted a departure from the recommended sentence, on this record, we conclude that the trial court's sentence was within the recommended minimum sentence range. Defendant was charged as a subsequent offender under MCL 333.7413(2). Therefore, the trial court had the discretion to impose a sentence that was "twice the term otherwise authorized," see MCL 333.7413(2), which included doubling the recommended minimum sentence range. See *People v Williams*, 268 Mich App 416, 424-431; 707 NW2d 624 (2005). Based on the fact that the trial court doubled the maximum sentence permitted for the charged offenses to eight years, see MCL 333.7401(2)(d)(iii) (listing the maximum sentence as four years in prison), it is clear that the trial court exercised its discretion to double the authorized term. Hence, when MCL 333.7413(2) is properly applied to the minimum sentence range, see *Williams, supra*, the upper limit is 34 months rather than 17 months. Consequently, defendant was not entitled to an intermediate sanction and the trial court did not have to articulate a substantial and compelling reason to commit defendant to the department of corrections.

There were no errors warranting sentencing relief.

Affirmed.

/s/ Patrick M. Meter  
/s/ Michael R. Smolenski  
/s/ Deborah A. Servitto